

MANSFIELD TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURES		
SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS		
EFFECTIVE DATE: June 10, 2021	NUMBER OF PAGES: 29	
6.09	BY THE ORDER OF: Chief of Police Michael Reilly	

PURPOSE The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC) and mobile video recorders (MVR). BWC and MVR are intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law.

POLICY It is the policy of the Mansfield Township Police Department to utilize BWCs and MVRs to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

BWCs and MVRs shall be deployed and utilized by all personnel in a manner consistent with manufacturer’s guidelines, the provisions in this SOP, and those directives or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive 2015-1*, and the Warren County Prosecutor’s Office. Failure to use this technology in accordance with this policy and those directives or guidelines set forth in *New Jersey Attorney General Directive 2015-1* and the Warren County Prosecutor’s Office shall be subject to discipline.

The Mansfield Township Police Department webpage shall publicize the official deployment of BWCs to the public. It shall contain a clear statement that this department utilizes body worn video/audio recorders and maintain a clearly identifiable link to this SOP. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that the public will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the county prosecutor’s office of this general notification to the public.

Any willful or repetitive violations of this SOP shall be reported to the internal affairs supervisor who shall report such directly to the Chief of Police and/or the Warren County Prosecutor’s Office. The Chief of Police and/or Warren County Prosecutor’s Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this SOP and to prevent future violations.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this SOP, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
 2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of *Court Rule R. 3:17* (electronic recording of station house custodial interrogations).
 3. Cabin microphone: refers to the internal microphone installed in the passenger compartment of the police vehicle.
 4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's SOP on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm (e.g., "...*move out of the way*", "...*get down*", etc.).
 5. County prosecutor means the Warren County Prosecutor's Office.
 6. Daily tour of duty – an officer's single workday.
 7. Force – has the same meanings as defined in this department's SOP on *Use of Force*. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.
 8. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
 9. MVR: mobile video / audio recording equipment installed in a police vehicle. All references to MVR shall include the equipment installed in the police vehicles, removeable components and media devices, and where appropriate, other accessories necessary to operate the system.

10. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
 11. Significant event: refers to any non-criminal event recorded on a BWC or MVR that could have administrative or evidentiary value and should be reviewed and/or saved. This would include alleged complaints against the members of the department.
 12. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
 13. Tagging – is the electronic labeling of a video/audio file captured by a BWC or MVR. The terms categorizing or category can be used interchangeably with the terms tagging or tag.
 14. Triggering event: any action that causes the MVR to create, record and save a recording. Triggering events can include activating emergency lights, manually pressing the record button on the front panel, or activating the transmitter/wireless microphone.
 15. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as group homes, residential facilities, day care centers, and day treatment centers.
- B. All references to BWC and/or MVR include the body worn devices, the wireless transmitters, microphones, removable media, servers, and other accessories necessary to operate these systems.

II. GENERAL

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWC and MVR have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. There is no intent to utilize the BWC or MVR as a management tool to punish officers for minor departmental rule infractions.
1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWC and MVR shall only be utilized for legitimate law enforcement duties and not for personal purposes.
- C. These recordings will serve the following purposes:
1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.

2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. The recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 5. Supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- D. When properly used, this equipment will have the following capabilities:
1. Creation of accurate documentation of motorist contacts and other patrol related activities, including, but not limited to, arrests, other police-citizen contacts and other critical incidents.
 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports. These recordings enhance the department's ability to review probable cause determination, police-citizen interactions and evidence for investigatory purposes.
 3. This agency shall not utilize any biometric technology, such as facial recognition, to conduct searches of video files or passive searches of the public.
- E. Adequate safeguards are necessary to ensure that this technology is:
1. Used in a non-discriminating way; and
 2. Used to properly preserve evidence; and
 3. Used to safeguard against potential violations of N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act* (MVR).

- F. While visual and audio evidence may be captured on the recordings, the use of BWC and MVR cannot always depict the full story of an encounter. It is also not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. The use of a BWC or MVR does not diminish the requirement to provide a thorough, text documentation of an incident. BWC and MVR recordings are only one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- G. Officers shall use only those BWCs and MVRs that have been purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized.
- H. BWC and MVR equipment and all data, images, video, audio, and metadata captured, recorded or otherwise produced by the equipment is the sole intellectual property of this department. Under no circumstances will any employee of the Mansfield Township Police Department make a personal copy of any recorded event.
- I. The Chief of Police shall appoint a BWC/MVR coordinator to maintain a training program on the lawful and proper use of BWC/MVR equipment. Responsibilities include, but are not limited to:
 - 1. Provide initial training during a new officer's field training program or for all officers not previously trained.
 - 2. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC/MVR records.
 - 3. Provide additional training as required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, a disciplinary matter, and to incorporate changes, updates, or other revisions in procedures and equipment.
 - 4. The BWC and MVR user manuals are located on the bookshelf housing the BWC docking stations.
 - 5. If any officer is unclear with this SOP or the operation of a BWC or MVR, he/she should contact their supervisor to arrange for additional training.
- J. Only officers who are authorized by the Chief of Police and have received training in the use of BWC/MVR are permitted to use these systems and must demonstrate a satisfactory degree of familiarity and efficiency in the use of these systems. Proper use of a BWC/MVR is considered an essential job requirement.
- K. The BWC/MVR coordinator or his/her designee shall manage and coordinate the BWC/MVR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC/MVR recordings. This system shall include provisions to:
 - 1. Maintain a record of all BWC/MVR serial numbers and assignments.
 - 2. Set permission, authority levels, and tag/retention categories in L3 server.

3. Repair any BWC/MVR equipment which, shall only be performed by the manufacturer or under the direction of the BWC/MVR coordinator or his/her designee.
4. Ensure that all recordings are uploaded to the L3 server in a timely fashion.
5. Prevent tampering with or deletion of recorded data both before and after uploading from the BWC/MVR and uploading to the L3 server.
6. Restrict unauthorized access to stored BWC/MVR recordings.
7. Document all instances where BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted (this can be generated by the L3 server software).
8. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.
9. Review BWC/MVR internal audits to ensure compliance on the utilization of these devices in accordance with this SOP and immediately notify the Chief of Police if the system or audio/video recordings are compromised or accessed without proper authorization.
10. Review the specific recording, as well as any relevant department investigation, supplemental reports or any other reports in the case file to confirm proper retention schedule compliance prior to the destruction, erasing, or deletion of any BWC/MVR recording, other than by automated retention.

III. BODY WORN CAMERAS

- A. Each officer will be assigned a BWC. Each BWC has a unique serial number and has been assigned an internal tracking number. When on duty or an extra-duty assignment, the device shall be worn as an authorized component of the uniform of the day.
 1. Wearing any personally owned video/audio recorder by department personnel is not authorized without the expressed permission of the Chief of Police, the county prosecutor's office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
 2. BWCs shall be stored in their charging sleeves when not in use to permit charging of the device and downloading of recordings.
 3. The use of a spare BWC must be obtained from the duty shift supervisor. The duty shift supervisor must document the issuance of the spare BWC by email and forward such to the BWC/MVR Coordinator. The duty shift supervisor shall assign the BWC to the officer in the L3 software for the duration of its use.
 4. BWCs shall only be used in conjunction with official law enforcement duties.

- a. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
 - b. Officers assigned to administrative duties are not required to utilize BWCs.
 - c. Officers assigned to the Detective Bureau are required to possess a BWC when outside of headquarters and to utilize BWCs during the following circumstances:
 - 1) Use of Force incidents
 - 2) Use of constructive authority
 - 3) Transport of an arrestee
 - 4) Response to an emergency assistance requestDetectives may utilize BWCs in other situations, which by virtue of the officer's training and experience, he/she believes should be recorded and not restricted by any other section of this policy.
 - d. Officers on extra duty assignments are required to wear and use their BWC.
5. BWCs shall not be used surreptitiously.
 6. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.
 7. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identify, gender expression, transgender status, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.

B. Officer's responsibilities

1. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care for ensuring proper functioning during their daily tour of duty.
2. Officers assigned BWCs shall use the device specifically assigned to them unless otherwise authorized or directed by a supervisor.
3. Officers shall place the BWC in stand-by mode (during which time the device does not make a permanent record of images or sounds unless the officer activates the record mode function), prior to leaving headquarters at the beginning and/or during the course of their daily tour of duty.
4. Officers shall wear their assigned BWC mounted to the front left, center, or right side of the outermost garment on the upper chest area, facing forward, using the mounting equipment provided by the manufacturer. No object shall be placed in front of the BWC in such a manner that it interferes with or obstructs the recording.

5. Prior to beginning a shift, officers will ensure the BWC's readiness by conducting an operational inspection. The inspection shall include, but not be limited to:
 - a. Ensuring the battery is adequately charged prior to leaving headquarters.
 - b. Ensuring the device has sufficient memory to complete their daily tour of duty.
 - c. Ensuring the proper positioning of the BWC on his/her uniform.
 - d. Activate the BWC to verify the record function is working properly.
 - 1) If an officer is assigned to a patrol vehicle that is equipped with an MVR system, and he/she is considered the primary officer of that vehicle, he/she shall pair his/her BWC with the MVR system prior to or after conducting the pre-shift inspection.
 - 2) An officer will not be required to pair his/her BWC with an MVR system if he/she is not assigned to a vehicle equipped with an MVR system or is not considered the primary officer of that vehicle.
 - e. Categorize the test video once it is made available as a 'Test'.
6. Officers shall periodically, and no later than the end of each shift, upload the contents of their specific device by placing the device in a docking station.
7. At the conclusion of the officer's shift, he/she shall inspect his/her BWC to ensure system integrity. The officer shall:
 - a. Place their BWC in the docking station at headquarters for battery charging and remaining video uploads to the L3 server.
 - b. Tag or categorize all uploaded video/audio recordings properly for retention purposes if he/she has not done so prior.
8. Officers finding any BWC that is found to be damaged, lost, or not functioning properly, thereby preventing the use of the device during the shift shall report such to their immediate supervisor upon discovery.
9. Officers are prohibited from tampering with any BWC including, but not limited to, attempting to take the device apart, disable, alter or repair it in any way.
10. Any time an officer accesses a BWC recording for any purpose (e.g., report preparation, meaningful review, etc.), he/she shall document the access on the officer review log located in the BWC/MVR Coordinator Binder, the date, purpose for viewing the recording, their initials and badge number. **Officers are only permitted to view their own recordings unless authorized by a supervisor.**

11. Officers shall inform their immediate supervisor of any recordings that may be of value for training purposes. Recordings may be shown for training purposes within the department at any time, but outside of the department only upon completion of a criminal case (if applicable), pursuant to written authority from the Chief of Police. All such use shall be pursuant to the written authority of the Chief of Police.

IV. MOBILE VIDEO RECORDERS

- A. Equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty patrol supervisor.
 1. No one is permitted to move the installed components of the system from its positions without authorization by the BWC/MVR coordinator or his/her designee or as permitted by this SOP.
 2. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the BWC/MVR coordinator or his/her designee.
 3. Equipment shall be maintained according to manufacturer's recommendations.
- B. Installation, removal or repairs to any of the MVR equipment shall only be performed under the direction of the BWC/MVR coordinator or his/her designee.
 1. MVRs will upload automatically to the MVR server when a vehicle is close to headquarters.
 2. No officer or other police employee shall conduct him/herself in any way that would intentionally interfere with any data upload from occurring. If an officer or police employee is found to have intentionally interfered with any upload, an internal affairs investigation shall be initiated.
 3. If a police vehicle is towed due to a collision or having become disabled, contact the BWC/MVR coordinator or his/her designee so that arrangements can be made to secure the removable media.
 4. The BWC/MVR coordinator shall be promptly notified concerning any MVR equipped vehicle involved in:
 - a. A crime; or
 - b. A collision with serious bodily injuries to any party; or
 - c. A motor vehicle pursuit involving any crash or injury.
 5. The BWC/MVR coordinator or his/her designee shall respond and remove the removable media and secure it as evidence.
- C. It is the officer's responsibility to exercise reasonable care when using the

equipment. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.

- D. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of the shift supervisor as soon as possible.
 - 1. To verify operation of the video portion, activate the MVR and place it in record mode (manually or via activation of overhead lights) to test operability.
 - 2. Inoperable or damaged MVR equipment shall be immediately reported to the duty shift supervisor.
 - 3. The duty shift supervisor shall check the MVR equipment to determine the problem. The vehicle can still be used for patrol purposes as long as the assigned officer is equipped with a working BWC.
 - 4. Officers shall log into the MVR system and pair their BWC with the system.
- E. In the event an officer who has reported for duty needs to immediately respond to a priority call and is unable to fully check the MVR system prior to his/her response, he/she shall still operate the MVR within this SOP until such time he/she is able to fully check the system at a later time.
- F. If for any reason video is recorded on an MVR that is not automatically assigned to that officer, it that officer's responsibility to ensure he/she tags/labels any such videos as soon as possible.
 - 1. All supervisors have the ability to reassign recordings and cameras to any officer in the agency.
 - 2. If video is recorded and not assigned to that particular officer, the officer is to notify his/her supervisor so that video can then be re-assigned to that officer so it can be labeled properly.
 - 3. This can be done once the recording has been downloaded to the L3 server.
 - 4. Officers should also ensure they properly log off/sign out of the L3 application when their shift ends. Failure to properly sign off will result in that MVR still being assigned to that officer when used by the next officer until they are able to pair it.

V. SUPERVISORY RESPONSIBILITIES

- A. Shift supervisors are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift. This section applies to all divisions or bureaus assigned the use of BWCs. Shift supervisors shall:
 - 1. Ensure that all officers follow proper procedures for the use and operation of BWC and MVR equipment.
 - 2. Document requests for repairs and replacement of damaged or inoperable BWC and MVR equipment in accordance with this SOP.

- B. Upon discovery of a BWC that is damaged or non-functioning, the shift supervisor will remove a BWC from service and then notify the BWC/MVR coordinator with the details of the malfunction, problem or deficiency via email. Once the supervisor's request is submitted, he/she will be immediately authorized to assign the spare BWC to the affected officer. The malfunctioning BWC shall be placed in the docking station.
- C. Upon discovery of an MVR that is damaged or non-functioning, the shift supervisor shall notify the BWC/MVR coordinator with the details of the malfunction, problem or deficiency via email. The vehicle can still be used for patrol purposes as long as the assigned officer is equipped with a working BWC.
- D. Shift supervisors shall take protective custody of the BWC from any officers who are involved in a serious incident in order to safeguard the recording. Such incidents include, but are not limited to use of deadly force, use of force resulting in serious bodily injury or death, serious motor vehicle crashes involving an on-duty officer, any incident resulting in the incapacitation of the on-duty officer or any other incident in which the supervisor feels is necessary to protect the recordings. The process shall take place as follows:
 - 1. The shift supervisor shall take custody of the BWC after the entire incident has concluded and the BWC's has been deactivated in accordance with the parameters set forth in this SOP.
 - 2. The shift supervisor who takes custody of the BWC shall forward it to the BWC/MVR Coordinator and issue the officer a spare unit with notification to the BWC/MVR Coordinator via email.
 - 3. The BWC/MVR coordinator or his/her designee shall upload and categorize any footage captured of the incident accordingly.
 - 4. Such BWCs shall only be placed back in service at the direction of the Chief of Police.
- E. Shift supervisors/supervisors shall formally review one (1) recording of selected non-evidential BWC and MVR recordings for each officer under their supervision, during each weekly tour of duty using a *Supervisory Review of Digital Video/Audio Recordings Form*, in order to:
 - 1. Assess officer performance (positive or negative activities); and
 - 2. Ensure the equipment is operating properly; and
 - 3. Assess officer performance and adherence to this SOP; and
 - 4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.
- F. Reviewing supervisors shall formally review the recordings of officers under their supervision using a *Supervisory Review of Digital Video/Audio Recordings Form* for every BWC/MVR event involving:
 - 1. Use of force.

2. Warrantless searches (any type).
3. Pursuits.
4. Officer involved injuries.
5. Officer-involved motor vehicle crash.

The internal affairs supervisor will review every BWC/MVR event involving use of force incidents and pursuits.

- G. Reviewing supervisors are responsible for ensuring all BWC/MVR recordings are tagged, or categorized, properly as listed under section VIII of this SOP. Officers under their supervision will be retrained on proper tagging, as needed.
- H. Each reviewing supervisor who accesses a BWC/MVR recording on the L3 server shall complete a *Supervisory Review of Digital Video/Audio Recordings Form* for each officer's video/audio recording viewed. These reports shall be placed in the BWC/MVR Coordinator review form binder immediately after reviewing the recording.
- I. Shift supervisors shall formally review all instances when a BWC/MVR is deactivated prior to the conclusion of an incident. They will prepare a written report or email of that specific incident and forward the documented review through proper chain of command upon every occurrence to the BWC/MVR coordinator.
 1. In the event that a shift supervisor is out for an extended period of time, and weekly reviews cannot be accomplished, another supervisor shall be assigned to conduct the reviews until the return of the assigned supervisor.
 2. The BWC/MVR coordinator or his/her designee shall retain all administrative reports generated in accordance with this SOP which will be available to the Chief of Police for review.
 3. Separate from the above-mentioned formal review of one (1) audio/video recording of selected non-evidential BWC/MVR recordings of each officer, the BWC/MVR Coordinator or internal affairs supervisor may review specific BWC/MVR footage if circumstances arise that requires an investigation to commence.
- J. The internal affairs supervisor shall formally review one (1) recording of selected non-evidential BWC and MVR recordings for each patrol sergeant, during each weekly tour of duty using a *Supervisory Review of Digital Video/Audio Recordings Form*, in order to:
 1. Assess officer performance (positive or negative activities); and
 2. Ensure the equipment is operating properly; and
 3. Assess officer performance and adherence to this SOP; and
 4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.

ACTIVATION / OPERATION

- A. MVR equipment is preprogrammed to begin recording when the vehicle's emergency lights/siren are activated, the vehicle operator's BWC is activated, the vehicle is involved in a crash, or the record button is pressed manually either on the device or on the L3 application.
1. MVRs are programmed to pre-record 30 seconds of video only and shall be activated while responding to **ALL** emergencies regardless of whether the vehicle's emergency lights are activated. This could be due to the officer's proximity to the call, lack of traffic, the need for a stealth response for tactical purposes, etc.
 2. Whenever the MVR is activated, officers shall ensure that the audio portion is also activated. Video recording might not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring to the extent possible.
 3. Officers equipped with body worn cameras (BWC) are still required to utilize the vehicle's MVR, if so equipped.
 4. MVRs are also equipped with a microphone that will record audio while recording video. This can be muted similar to the BWC. The indicator light will blink blue while the mute feature is activated. Mute should only be used for the same reasons as it would be used for a BWC recording and shall be unmuted as soon as possible.
 5. Officers are encouraged to manually activate the MVR prior to activating overhead emergency lights when appropriate to record actions, which may assist in demonstrating probable cause or capturing video evidence of a violation. (e.g., moving violations committed prior to stopping the vehicle)
- B. When assigned to an officer for duty, the BWC will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will record from the moment the record start / stop button is pressed.
- C. Except when otherwise restricted in this SOP, uniformed officers shall be required to activate their BWC in any of the following circumstances as soon as it is safe and practicable to do so. Examples of such required recordings include, but are not limited to:
1. All traffic stops from the time of the stop until the stop is concluded, including sobriety testing.
 2. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish or cannabis item.
 3. Warrantless searches in the field, including frisks.
 4. Use of force incidents, to the extent possible.
 5. Emotionally disturbed person incidents, to the extent possible.

6. Strikes, picket lines, demonstrations.
 7. Disturbances.
 8. Stationary police details, such as DWI sobriety checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
 9. Crash scenes, including interviews on the scene.
 10. Crime scenes, to the extent possible.
 11. Domestic violence investigations.
 12. Motor vehicle and foot pursuits.
 13. All investigations.
 14. Arrestee, prisoner, emotionally disturbed person, and other civilian transportations.
 15. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function.
 16. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 17. Investigative detention field interviews.
 18. Out-of-court identifications (i.e., show ups, lineups).
 19. All calls for service and all other situations, which by virtue of the officer's training and experience, he/she believes should be recorded.
 20. When an officer uses force or constructive authority, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution.
- D. Whenever the BWC/MVR is activated, officers shall ensure that the audio portion is also activated and the volume on the patrol vehicle's AM/FM radio is turned OFF.
- E. BWCs/MVRs shall remain activated for the entire duration of an incident and shall not be deactivated until the incident is concluded. The term concluded can be interpreted as:
1. BWC/MVR equipped officer has left the scene.
 2. BWC/MVR equipped officer providing assistance or back up to another BWC/MVR equipped officer is no longer needed and has left the scene.
 3. All the civilians involved in the encounter have left the scene.

4. The officer has informed the dispatcher or a supervisor that the incident has concluded; the incident is closed in CAD.
5. During the transportation of all arrestees from the scene of the arrest to headquarters and shall remain active until:
 - a. The vehicle is parked and turned off (MVR).
 - b. The arrestee is secured in the holding area (BWC).
 - c. Until custody of the arrestee has been transferred to the county jail personnel and the officer is no longer in the presence of the arrestee (BWC).
 - d. Upon arrival at a healthcare facility with an arrestee. However, the BWC will be immediately reactivated at the commencement of any violent, confrontational, argumentative or accusatory interaction, or at any indication that constructive authority or force may become necessary

F. Notifications to citizens.

1. Officers equipped with a BWC are required to provide verbal notification unless it is unsafe or unfeasible to provide such notification.
 - a. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the incident report of the incident and/or by narrating the reasons on the BWC recording.
 - b. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

G. Truthful response to civilian inquiry:

1. If a civilian inquires whether the officer is equipped with a BWC or inquires whether the device is activated, the officer shall answer truthfully unless the Warren County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording. This section does not apply to:
 - a. Officers while operating in an undercover capacity.
 - b. While conducting/participating in stationhouse custodial interrogation electronically recorded in accordance with Court Rule 3:17.
2. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.

H. Special activation rules governing deadly force incidents and other exigent circumstances when officers are in danger:

1. Notwithstanding any other provision of this SOP, when an officer equipped with a BWC/MVR is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (*e.g., an officer in distress, shots fired, etc.*), the officer shall activate his/her BWC/MVR before arriving at the scene unless impracticable.
 2. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly force event, pursuit resulting in a death or serious bodily injury, or in-custody death incident or the on-scene investigation of such events shall not deactivate his/her BWC/MVR unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor/deputy attorney general or his/her designee supervising the investigation can provide such instruction telephonically.
- I. Deactivation of a BWC/MVR:
1. A BWC/MVR-equipped officer may deactivate a device when:
 - a. Discussions pertaining to criminal investigation strategy / planning – Officers may deactivate a BWC/MVR while participating in a discussion pertaining to criminal investigation strategy and planning (*e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.*), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (*i.e., conducting a search*). When an officer deactivates a BWC/MVR pursuant to this section, the officer shall narrate the circumstances of the deactivation (*e.g., "...I am now turning off my BWC/MVR to discuss investigative strategy with my supervisor, detective or other on scene personnel as required"*).
 - b. Assistant prosecutor/deputy attorney general authorization – Officers may deactivate a BWC/MVR when specifically authorized to do so by an assistant prosecutor/deputy attorney general for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC/MVR pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (*e.g., "...I am now turning off my BWC/MVR as per the instruction of assistant prosecutor (insert name)"*).
 - c. Electronic breath testing – BWCs (and MVR transmitters) shall be removed while in the room where the **ALCOTEST 7110 MKIII-C** is being used.

- d. Emergency medical assistance – Officers may deactivate a BWC/MVR when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC/MVR be deactivated. In deciding whether to deactivate the BWC/MVR, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
 - e. Walk-in reports at headquarters – In order to prevent the recording of events unrelated to calls for service, officers at police headquarters investigating walk-in complaints are to deactivate their BWC/MVR when not in the presence of the complainant (*e.g., typing of complaints, or other follow-up activities conducted in the patrol area, booking room, etc.*). The officer shall narrate on the BWC/MVR the reason for the deactivation and immediately re-activate the BWC/MVR each time contact with the civilian is reestablished.
2. When an officer deactivates a BWC/MVR:
 - a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded and the officer shall narrate the circumstances of the deactivation.
 - b. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable.
 - c. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation.
 3. If an officer declines a request to deactivate a BWC/MVR, the reasons for declining the request (*e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter*) must be memorialized on the recording and documented and shall be reported to an immediate supervisor as soon as it is safe and practicable to do so.
 - a. In the event that the officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.
 - b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC/MVR has been turned off when in fact it is operating unless the county prosecutor or his/her designee or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
 4. In any instance when a BWC/MVR was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when:
 - a. The circumstances justifying deactivation no longer exist (*e.g., the interview of the person requesting deactivation is completed, etc.*).

- b. The officer would otherwise be required to activate the BWC/MVR.
- c. Circumstances develop so that an officer is authorized to use force.

J. Civilian request to stop recording:

- 1. Civilian request to stop recording – If a civilian inquires of an officer whether the officer is equipped with a BWC/MVR, or inquires whether the device is activated, the officer shall answer truthfully unless the county prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording. An officer has no obligation to deactivate the recording in response to a civilian's request if the recording is pursuant to an investigation, arrest, or lawful search, or if the circumstances dictate that the continuous recording is necessary.
 - a. Officers may deactivate a BWC/MVR when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.
 - 1) Officers shall not suggest to the person that the BWC/MVR should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC/MVR be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - 2) In deciding whether to deactivate the BWC/MVR, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.

K. Failure to activate, record an entire event or interrupt recording:

- 1. If an officer fails to activate the BWC/MVR, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation report the reason(s) why a recording was not made, was interrupted, or was terminated prematurely.

VI. RESTRICTIONS ON BWC/MVR ACTIVATIONS

- A. BWC/MVR are intended for official police department use only and shall not be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- B. BWCs/MVRs shall be used only in conjunction with the purpose of recording incidents, investigations and police-civilian encounters involving official law

enforcement activities specified in this SOP. The BWC/MVR shall not be used to record:

1. Communications with other police personnel without the advanced permission of the Chief of Police, the county prosecutor's office or the New Jersey Division of Criminal Justice.
2. When on break or otherwise not actively performing a law enforcement function.
3. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
4. When engaged in police union business.
5. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
6. While discussing criminal investigation strategies.
7. While in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.

C. Schools, houses of worship, health care facilities, substance abuse centers, etc.:

1. Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC/MVR, or shall deactivate a BWC/MVR that has been activated while the officer:
 - a. Is in a school or youth facility; or on school or youth facility property under circumstances where children would be in view of the BWC/MVR.
 - b. Is in a place of worship under circumstances where worshipers would be in view of the BWC/MVR.
 - c. Is in a patient care area of a healthcare facility, medical office or substance abuse treatment facility under circumstances where patients would be in view of the BWC/MVR.
 - 1) In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the appropriate county prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd2, 42 CFR §23.1 to 23.41).
 - 2) The recording shall not be accessed without the permission of the county prosecutor or his/her designee. *(Note: that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory*

information that must be provided to a defendant in discovery.)

2. If an officer is required to deactivate the BWC (or MVR transmitter) when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (*e.g., "...I am entering a school building where children are present."*). The BWC/MVR transmitter shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation no longer exist (*e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC/MVR*).

D. Image of undercover officers / confidential informants:

1. Officers shall not activate a BWC/MVR, and shall deactivate a BWC/MVR that has been activated, if the officer knows or reasonably believes that the BWC/MVR would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (*e.g., active shooter, actual use of police force, officer in distress, etc.*) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.
2. The BWC/MVR shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
3. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (*e.g., a raid where an undercover operative will be arrested to preserve his or her cover*), the county prosecutor or his/her designee, may provide specific instructions to any BWC/MVR-equipped officers participating in the operation on whether to activate their BWCs/MVRs.

VII. WRITTEN DOCUMENTATION REQUIRED

- A. BWC/MVR recordings shall not be utilized as a replacement for written reports. Officers shall not simply refer to the recording in lieu of submission of a narrative portion of the written report.
- B. At a minimum, officers shall document in the written reports when BWC/MVR recordings were made during the incident in question and give a summary of the events in adequate detail that allows the reader of the report to have an understanding of the events that occurred.

VIII. TAGGING BWC/MVR RECORDINGS

- A. Officers shall uniformly tag their recordings during the course of their assigned shift or at the conclusion of their shift on the L3 software. Each video shall be tagged appropriately with the selections provided.
- B. Additionally, officers shall tag recordings that capture any of the following circumstances that the New Jersey Attorney General has deemed 'special privacy' issues as such. The following BWC recordings must be specifically tagged as "Privacy" as they raise special privacy or safety issues unless the video is required to be tagged as "arrest" or "citation" for retention purposes (The L3 system is not capable of allowing multiple tags):
 - 1. Images of a victim of a criminal offense.
 - 2. Images of a child.
 - 3. Images made in a residential premise (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship.
 - 4. Videos of conversation with a person who requested to deactivate the BWC/MVR was declined.
 - 5. Video of special operations event of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded.
 - 6. Images of any screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
- C. Supervisors are responsible to make sure the officers under their command are tagging videos properly.

IX. RETENTION OF BWC RECORDINGS

- A. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. Officers shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this SOP or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a body worn camera's ability to accurately capture audio or video recordings:
 - 1. The officer, employee, or agent shall be subject to appropriate disciplinary action; and
 - 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and

3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.
 4. Any recordings from a BWC recorded in contravention of N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
- B. Recordings are considered criminal investigatory records of this police department and shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Contents downloaded from BWCs/MVRs will be stored on the L3 server or other designated storage device(s).
 2. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 180 days.
 3. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 4. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency (2 years).
 5. BWC/MVR recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 6. BWC/MVR recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC/MVR made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC/MVR recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of an officer whose BWC/MVR made the recording or who is a subject of the BWC/MVR recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
 - d. Any officer, if the BWC/MVR recording is being retained solely and exclusively for police training purposes; or

- e. Any member of the public who is a subject of the BWC/MVR recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC/MVR recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent or legal guardian, or next of kin or their designee (subsections IX.B.6 (e)(f)(g)) shall be permitted to review the BWC/MVR recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
- 7. Recordings can only be erased or destroyed in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules and N.J.S.A. 47:1A-1 et seq.
 - 8. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and a minimum of three years.
- C. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the BWC/MVR Coordinator shall review the specific recording, as well as any relevant department investigation, supplemental reports or any other reports in the case file to confirm proper retention schedule compliance.

X. RESTRICTIONS ON ACCESS TO, USE, AND DISSEMINATION OF BWC AND MVR RECORDINGS

- A. Viewing of BWC/MVR events is strictly limited to authorized employees of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, or consistent with the provisions of this SOP.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. A law enforcement officer shall not review or receive an accounting of a BWC recording prior to creating any initial reports, statements and interviews regarding the recorded event. Nothing in this paragraph is intended to prevent the officer from considering, reviewing or receiving an accounting of such a BWC recording subsequent to the creation of any required initial report, statements and interviews regarding the recorded event.
 - 1. While information culled from the BWC recording may not be considered in creating an initial required report, statement or interview, after the creation of such initial report, statement or interview, the officer may review the BWC recording and, if appropriate, create additional reports or make additional statements or documentation that revise or supplement the initial report, statement or interview.
- D. No law enforcement officer or civilian employee of this agency shall access, view,

copy, disseminate, or otherwise use a BWC/MVR recording except for an official purpose as specified in this section. Access to and use of a stored BWC/MVR recording is permitted only:

1. When relevant to and in furtherance of a criminal investigation or prosecution.
2. When relevant to and in furtherance of an internal affairs investigation.
3. When relevant to and in furtherance of a management review process to identify circumstances indicating police misconduct or to determine the existence of a pattern or practice of possible misconduct.
4. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
5. To show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint. Only the internal affairs supervisor or his/her designee can show such a recording to a civilian.
6. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video and audio as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC/MVR recordings are subject to the fee requirements of the prevailing ordinance.
 - e. The Warren County Prosecutors Office shall be provided with any BWC video related to an indictable discovery request and they shall determine if the video is to be released to the defense attorney and if any redactions are required prior.
 - f. The Mansfield Township Municipal Prosecutor shall be provided with any BWC video related to a municipal court case and will determine if the video shall be released to the defense attorney. If the video is

to be released, a thorough review will take place to determine if any redactions are necessary prior to release.

7. To comply with any other legal obligation to turn over the recording to a person or entity.
8. Solely and exclusively for training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes.
 - a. Note: this section does not apply to Mansfield Township police officers appearing in the recording.
 - b. Mansfield Township police officers should be permitted to deny consent only if the recordings are used outside of the department for training.
 - c. BWC recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
9. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, where the county prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that particular person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
10. To conduct an audit to ensure compliance with this policy.
11. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the county prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
12. Any other specified official purpose where the county prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC/MVR recording

E. BWC open public record request

1. Except as otherwise provided in subsection X.D of this S.O.P., a BWC recording of an event or encounter that involves an investigation of a criminal offense as defined in subsection I.A.8 shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the law enforcement agency in consultation with the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, determines that the person's/entity's/non-law enforcement

agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

2. The Chief of Police or his/her designee shall notify the county prosecutor's office OPRA records custodian within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it.
 - a. The notification must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.
 - b. Provide the type of police action or activity depicted in the recording, including, but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force
 - c. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.
 - d. The Chief of Police or his/her designee will receive an acknowledgement. If no further communication is received within 72 hours, the record custodian or his/her designee should respond to the request as deemed appropriate.
 - e. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department will apply service fees for any extraordinary expenditure of time and effort to accommodate a request. The service fees will be based upon the actual direct cost of providing the service or extraordinary time. If the requester objects to the fee, the request is closed and access to the records is not granted.
 - f. BWC footage requests, requiring a substantial amount of manipulation or programming of information technology, will be assessed a special service fee that shall be reasonable and shall be based on the cost for the labor cost of personnel providing the service, that is actually incurred for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record.
 - g. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
 - h. The Chief of Police or his/her designee will provide the requestor an estimate before any copies are made.
- F. The assistant prosecutor or assistant or deputy attorney general, or his/her designee, overseeing a police use-of-force investigation, pursuit resulting in death or serious injury, or in-custody death incident pursuant to *Attorney General Law Enforcement Directive No. 2019-4*, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC/MVR

recording of the incident under investigation. To ensure the integrity of investigations of police use-of-force, pursuits resulting in death or serious injury, or in-custody death incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his/her credibility as a witness, notwithstanding any other provision of this SOP, no civilian or law enforcement witness, including the principles of the investigation, shall be given access to or view a BWC/MVR recording of the incident, or a BWC/MVR recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant prosecutor, assistant or deputy attorney general, or his/her designee.

- G. Recordings marked 'special privacy', pursuant to subsection VIII.B of this SOP, shall not be accessed, viewed copied, disseminated, or otherwise used without first obtaining the permission of the county prosecutor or his/her designee. Except for when a BWC/MVR recording captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Section VI.C.1.c.1 (requiring notice to the county prosecutor's office prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know), the county prosecutor may authorize the Chief of Police, and one or more superior officers or duty positions (e.g., Detective Bureau Supervisor) identified by the Chief of Police, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC/MVR recordings tagged pursuant to subsection VIII.B.
- H. If disclosure of a BWC/MVR recording as part of the State's discovery obligations in a prosecution might present a danger to any officer or civilian (*e.g., reveal an undercover officer, confidential informant, surveillance site, etc.*), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (*e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.*), the county prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the information from disclosure, such as by seeking a protective order from the court (See section VII of this SOP).
- I. Except as otherwise provided in subsection VIII.B of this SOP, a BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense, as defined in subsection I.A.8 of this SOP, shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police or his/her designee in consultation with the county prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

XI. CONTROL AND MANAGEMENT

- A. Contents downloaded from BWCs/MVRs will be stored on the L3 server or other authorized devices as designated by the agency. All images and sounds recorded by the BWC/MVR are the exclusive property of the agency. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.

- B. Copies of an event captured on BWCs/MVRs will not be released to other criminal justice agencies other than the county prosecutor's office and/or the New Jersey Division of Criminal Justice without the expressed permission of the Chief of Police or their designee.
- C. BWC/MVR recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safeguarded, as are other forms of evidence. As such:
 - 1. The L3 software is designated as the activity tracking software for all BWC recordings.
 - 2. All BWC/MVR recordings covered in this subsection shall be maintained on the designated storage device until such time as they are authorized to be destroyed by statute, rule, or other directive governing the record.
 - 3. BWC/MVR recordings authorized for release shall be copied to portable media and shall be subject to the same security restrictions and chain-of-evidence safeguards and documentation in accordance with the agency's evidence policy.
- D. All recordings are maintained within the L3 software and are authenticated by an internal audit program with the L3 system that includes:
 - 1. The date and time of access; and
 - 2. The specific BWC/MVR recording(s) that was/were accessed; and
 - 3. The officer or civilian employee who accessed the stored BWC/MVR recording; and
 - 4. The reason(s) for access, specifying the purpose or purposes for access authorized and specifying the relevant case/investigation number, where applicable.
- E. Officers shall not reproduce or store any recordings to any device or storage medium, to include, but not limited to, cellular phones, electronic notebooks, etc. Officers shall not direct another to reproduce or store any recordings to any device or storage medium, to include, but not limited to, cellular phones, electronic notebooks, etc.
- F. Officers shall inform their supervisor of any recordings that may be of value for training purposes. Recordings from BWCs/MVRs may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Chief of Police. Officers shall be provided with at least thirty (30) days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice.

XII. NOTICE TO PROSECUTOR OF SUBPOENA, COURT ORDER, OR OPRA / COMMON LAW REQUEST

- A. Any member of this agency receiving a subpoena, court order, or request pursuant to the *Open Public Records Act*, or the common law right to know, for a BWC/MVR recording shall, within one (1) business day of receipt of such subpoena, court order,

or request, and before complying with it, provide notice to the county prosecutor's office. Such notice shall state clearly the deadline by which a response must be made.

XIII. DELETION REQUESTS

- A. Only the BWC/MVR Coordinator or his/her designee can delete BWR/MVR recordings with the expressed consent of the Chief of Police or the county prosecutor's office.
- B. If an officer has inadvertently recorded data that is private or inappropriate, a request to delete the recording should be made to their immediate supervisor as soon as possible.
 - 1. The video shall not be viewed, but the officer shall tag the recording as '*privacy*', and submit an officer's report to their immediate supervisor, who will then forward to the BWC/MVR Coordinator. The actual BWR shall be taken out of service and turned over to the BWC/MVR Coordinator for uploading. The officer shall be issued a spare device until it is returned.
 - 2. Depending on the circumstances, the internal affairs supervisor may investigate the incident.
 - 3. If an investigation is warranted, the internal affairs supervisor shall conduct the investigation, respecting all rights to personal privacy, having the BWR/MVR recording viewed only by an officer of the same sex, if necessary.
 - 4. Upon completion of the investigation, the internal affairs supervisor shall notify the Chief of Police and request permission to delete the recording if warranted.